

CHARTER COMMISSION

April 3, 2013

6:00 p.m.

Chairman Duval called the meeting to order.

The Clerk called the roll.

Present: Commissioners Duval, Girard, Martin, D'Allesandro, Lopez,
Pappas, Ashooh

Commissioner Infantine arrived late

Absent: Commissioner Clayton

3. Minutes from meetings held March 13, 2013, and March 27, 2013.
(Note: Previously distributed to the board via email for review)

*On motion of **Commissioner Ashooh**, duly seconded by **Commissioner Martin**, it was voted that the minutes be accepted.*

4. Chairman Duval advised that legal counsel is present to answer questions.

Chairman Duval stated for those at home, Attorney Rick Lehmann is legal counsel to the Charter Commission and we asked him to join us tonight to be on hand to answer any questions that commissioners may have of him as we get to the final days of our work sessions before we submit our final document for review. He is a little familiar with what we are talking about at this stage so he is up to speed. He is with us tonight.

Commissioner Lopez asked could I ask a question at this time about legal fees? Could you explain to me the difference between February 7, 2013, and February 13, 2013, the difference between drafting a letter of \$857 and having a meeting with Bill Gardner and finishing the draft of the letter at \$945?

Mr. Rick Lehmann, Legal Counsel for the Charter Commission, replied the letter that was under the works at that time, if I remember, came out to be 11 or 12 pages of work that was started and then completed later. The meeting I had with Bill Gardner was between that and throughout the day I would make notes about the various things that I do and try to do my best to keep track of what they are and they are reflected on the bill, but it was more than a one day piece of work. It was pretty extensive. I think that was the letter that had eight or ten questions that you had all posed and I researched all the various questions so it was an extensive single spaced ten or 12 page letter to answer the questions that were posed so it did take more than a day.

Commissioner Lopez asked there are two letters you are speaking about or one?

Attorney Lehmann replied I think it is a single letter.

Commissioner Lopez stated then on 8-13 you had it all drafted... It took five hours to put it together?

Attorney Lehmann responded finishing the draft.

Commissioner Lopez stated okay. Very good.

Commissioner Girard asked Attorney Lehmann, was that the letter in which we discovered that there were two versions of the charter and we needed to figure out which one was in effect and being enforced?

Attorney Lehmann replied yes, I believe it was. That all came out.

Commissioner Girard stated there was additional work on your part before the final draft was written.

Attorney Lehmann responded there was. That was part of it. Frankly, I could not have drafted an opinion letter researching and answering all the questions that were asked in a single day. The questions were extensive and they covered a broad array of topics, and they were topics that I didn't know the answer to without doing some research. I had to digest the information and do my best to put it into a form that was able to be used. The issue about the content of the city charter arose when I was conducting that research.

Commissioner Lopez asked how would you prefer us to do this? I have experience of people writing the language in the charter and going back and forth and all that. I want to do this without costs escalating with phone calls if you charge if we call you. What type of document would you like to see to look at it in legal terms to send back to us before we send it up to the State?

Attorney Lehmann replied if I understand the question correctly, Commissioner Lopez, you are making sure that the legal costs don't get carried away by too much back and forth, which I think is a perfectly reasonable position to take. When you get to the point when you have a sense of what it is that you want to do, I think probably the most efficient way to communicate that is to have me come down to a session in which you describe exactly what it is that you are looking for

the language on what you want to do. I will propose language for you which will you can accept or reject or modify or send back. That will be up to you. If the language that I draft the first time through is acceptable to you, then you will presumably vote on it, approve it as a group, and it will be incorporated in a way that is ready to get sent up for approval.

Commissioner Lopez stated sometimes lay people write something up and when it comes to the charter, it has to be just right.

Attorney Lehmann responded every word matters.

Commissioner Girard asked Attorney Lehmann, would it facilitate your review in this process if laypeople... Commissioner Clayton is obviously a well known writer. I have been known to pen a thing or two. Would it be helpful, do you think, to your effort if we proposed language and you more or less were an editor rather than an originator?

Attorney Lehmann replied that is another way to do it.

Commissioner Girard stated not that I necessarily want to volunteer for this.

Attorney Lehmann stated I don't know how extensive the changes that are under consideration are at this point. If you were going to redraft the whole thing, you might treat it differently than if you are going to pick out a couple of provisions to adopt.

Commissioner Girard stated at a minimum, whatever changes this commission decides to make, if we were to do nothing other than give you bullet points, changes that we wanted to see, that would give you the ability to efficiently draft

language for our review, as long as the bullet points about what we wanted were clear.

Attorney Lehmann stated I think it would. The only concern I would have and it is hard to say what is going to work better in the abstract, but the concern that I would have is that sometimes the language that is drafted generates its own set of questions. If I have a question about what you are intending to say, if someone proposes language that could be construed in a couple of different ways then there would have to be a certain amount of back and forth to make sure you are getting what it is you really get.

Commissioner Girard stated I guess, as the situation unfolds, we will see how extensive the changes are. We should come to a conclusion about the best manner or the most efficient way to involve you is.

Attorney Lehmann stated that may make sense. I can have a phone call with the chairman as to how extensive the changes are and what sections of the charter are being involved as well.

Commissioner Girard stated thank you very much and thank you for the work that you have done on behalf of the commission and for the discount that you provided us on your fees. I don't think we say thank you enough for a lot of reasons, but thank you.

5. Consideration of proposed revisions to the charter.

Chairman Duval stated there was some light banter going on when I came into the room tonight relative to possible revisions to the charter. It is always good to have possible revisions to the charter items that have been approved and I suppose even the ones that have failed, we are getting to a point in the process now where we have to have some increased formality to the proposed revisions. We are at that point now. If it is the will of the commission to begin to discuss the motions that have passed... It is not terribly extensive, actually, and most of them are straightforward.

Commissioner Girard stated Mr. Chairman, I would like to make a motion to suspend the rules that we adopted because of the whole provision on reconsideration. I suspect that whether they have been passed or whether they have been defeated at this point there has been a desire by the commission to treat all the votes that we have taken as preliminary and I think if we suspend the rules then we can freely engage in a dialogue on anything and everything that has been discussed without worry about if we are procedurally following the rules that we adopted.

*On motion of **Commissioner Girard**, duly seconded by **Commission***

***D'Allesandro**, it was voted to suspend the rules for the balance of the Charter Commission meetings in order to discuss all motions, both approved and failed.*

Chairman Duval asked how do you wish to proceed? Let me put it this way, is there any topic that a commissioner wants to bring up as item number one?

Commissioner Lopez stated we can work from the approved motions from the charter.

Chairman Duval stated we can start with that just as a reference document. Does anyone need a copy?

Commissioner Martin stated I was remiss last week. JoAnn Ferruolo from the Clerk's Office stopped me prior to last week's meeting and had given me some feedback. She had created some commentary on four items for our consideration. As I said, she stopped me at the beginning of last week and I was remiss in passing this on. I just wanted to make sure that I shared that with commissioners before this conversation. Some of it is verbiage, some of it is reaction.

Chairman Duval stated I want to make sure that each commissioner has a passed list and then the one that Commissioner Martin handed out.

Commissioner Martin stated I apologize for that. It is the same as Clerk Leahy's document, it just had highlights on it. Perhaps Commissioner Lopez can come forward with where he is going next. Now that we have these in front of us, we can roll.

Commissioner Lopez stated I'm interested in items 1, 2, 6, 8 and 11. I'll start with number one. This is a no-brainer. It was a unanimous vote of the commission to increase the terms to four three-year terms. I don't have any objections.

Commissioner Girard stated I think, unless there is a commissioner who wants to make a change to anything that has been adopted, that we take another motion on it confirming what we have done on it. I don't know that it needs discussion. I think if any commissioner wanted to make a change, they ought to make that

motion and we ought to have the discussion and then we ought to have an up or down vote on that motion, assuming a second.

Commissioner Lopez stated let me clarify that. I think that the only thing we are doing is going down and saying okay at this point.

Chairman Duval stated I think we should take a motion because as Commissioner Infantine was so emphatic about and other commissioners as well, they were preliminary votes. We were pushing them forward to have further discussion. From a formality perspective we might want to do that.

Commissioner Lopez stated we can do that if you want, but I think in the end, you might end up with eight or nine that you are going to have to eliminate so is that the process we want to go by? There are some, for example, like the School District, I'm not changing my mind on changing the district to a department. I guess what I am saying, take a vote on each one, we might end up with eight, nine or ten different things and then we are going to have to go through the same process. If we can get down to five or six then there might be compromise some place.

Commissioner Infantine stated Mike, the reason why I like to go through some of these is to have a discussion a little differently than we had and go through some of the issues we have, why some people would rather see something go through than not. The salary of the mayor—that is one that I know we are going to have some discussion on about to change that number. The timing of the budget—I have heard recently different discussions. The timing versus a few different things and getting away from the timing but add some of the things that may solve that. The aldermen's pay—we are going to have a dialogue back and forth and eventually we are going to come across this table with something that we

all think we can live with. That is why I think we should do that because then we can get down to exactly... Let's be honest with each other: we are going to come down and exactly what is going to happen and some of the things that each one of us would like and then the work is going to start about what we can all can live with to get to something that we all think is going to pass.

Commissioner Lopez stated that's fair enough.

Commissioner Martin stated point of clarification, just because Commissioner Clayton is not here tonight, we are not putting anything in granite here when we have this conversation. I want to make sure that he has an opportunity.

Chairman Duval stated we certainly want to give him that opportunity.

Commissioner Infantine stated my understanding is that we are going to continue to discuss these things until that last final night. That final day is going to be when we vote these things up or down. We may agree, between now and then, that certain things are worth discussing. It was amazing to me that not one person at any public hearing or any emails that I had gotten had anything to do with the welfare commissioner. When we get down to some of these things and how important they are to the final issue, we may have ten approved, 16 unapproved and we may pare it down to six. That is what our final deliberation will be because I would rather we all walk away with six things that we can walk out of here supporting as a commission versus 15 things.

Commissioner Ashooh stated I would like to make a motion to accept and affirm the unanimous votes on 1, 4 and 11.

Commissioner Girard asked could we take them separately please? It is not that I necessary want to challenge them, I just think we should do them separately.

Commissioner Ashooh stated let me amend my motion to affirm the unanimous vote on motion number one, that appointed boards and commissions have their terms increased to four three-year terms.

*On motion of **Commissioner Ashooh**, duly seconded by **Commissioner Girard**, it was voted to reaffirm the vote that boards and commissioners term limits be increased to four three-year terms. There being none opposed, the motion carried.*

Commissioner Infantine stated just so I understand it, we are increasing it from two to four and at any given time the renewals will come up, does the mayor have to approve the renewal it?

Commissioner Girard replied yes, the mayor has to re-nominate.

Chairman Duval replied that's correct.

***Commissioner Ashooh** moved to reaffirm the vote to expand the disclosure of pecuniary interest (annual financial disclosure) to cover all boards and commissions in addition to the Board of Mayor and Aldermen and School Board. The motion was duly seconded by **Commissioner Martin**.*

Commissioner Infantine stated at the State House, when we approve something then we expect the departments to write the rules. I guess my question on this is... Mike, I believe this is what you brought out, the same form that we use at the State House. Who does the collection?

Clerk Leahy replied I do. Our office creates the financial disclosure form and it is distributed to the two boards.

Commissioner Ashooh stated it has to be filed by January 15th. Basically we are adopting the aldermanic rules on financial disclosure. It has been extended to all the other boards so we are expanding that under the same provision. You will have 50 or 60 forms more.

Commissioner Lopez stated I would ask the maker of the motion if he would incorporate number 11 with number 4. I just want to eliminate item 11 and incorporate it into number 4. I think it could be combined that you have to make a disclosure and if you don't there is a penalty.

Commissioner Ashooh stated the only reason I won't is because I think the enforcement of the \$300 is for candidates for office, not boards and commissions.

Commissioner Lopez stated my point is to put it in there. If you don't do the financial disclosure and the city clerk has to determine if he is a candidate or not, any elected official, somehow the language has to be in there to have a penalty.

Commissioner Ashooh stated since we are dealing with volunteer boards, I think it was to amend 9.03, which is elected officials...

Commissioner Infantine interjected Mike, do you want to just add financial disclosure?

Commissioner Girard stated two things. I don't know why we can't take them as separate motions because at the end of the day we are accomplishing the same thing by having a penalty. I'm not sure that for volunteer boards, if people fail to file, that \$300 is fine. It is a little different when you are a candidate for office than an elected official and I don't think that penalty is appropriate so I would want to treat it differently. The other question I had on this was at some point can we enter into a discussion about the conflict of interest disclosure for elected officials because I happen to believe that people married to City employees or parents of City employees ought to be disclosing that. It is like how Mayor Gatsas brought up Rule 42 in the Senate that there ought to be some public disclosure of that.

Commissioner Ashooh stated I think financial disclosure is covered under the ethics rule for the Board of Mayor and Aldermen.

Commissioner Girard stated it is not.

Commissioner Ashooh stated I believe it is. It asks for family members and businesses and things like that.

Clerk Leahy stated I'm not sure that it has family members on there, but it definitely has business relationships.

Commissioner Girard stated it does not have family members.

Commissioner Ashooh stated I have to go with my memory on this, but I believe it extends to anybody in your immediate family, and it defines immediate family, that has a business relationship.

Commissioner Girard stated it has business relationship, but if they are married to a City employee they don't have to disclose that.

Commissioner Ashooh stated but if they have a business relationship with a vendor they do. Let's get beyond this. This is for the BMA and their financial disclosure.

Commissioner Girard stated School Board as well.

Commissioner Ashooh stated School Board as well, but we are talking about extending the financial disclosure to boards and commissions.

Commissioner Girard stated right, and my only request is to ask if we could have a discussion on those extensions to not have it incorporated into this discussion.

Commissioner Ashooh stated it is not part of this motion.

Commissioner Infantine stated I hear three different things. I hear the motion, I hear what Commission Lopez wants to do—add a fine here—and I think we can amend item 11 to outline the different fines for appointed versus elected and then Rich, you have a third thing about that so I would like to keep this as clean as possible and deal with this one and then go ahead with those two

Chairman Duval called for a vote on the motion to reaffirm the vote to expand the disclosure of pecuniary interest (annual financial disclosure) to cover all boards and commissions in addition to the Board of Mayor and Aldermen and School Board. There being none opposed the motion carried.

Commissioner Ashooh stated under item 11, it was unanimous that there should be a \$300 fine for financial disclosure. Mike, would you like to talk about that?

Commissioner Lopez replied under 5.29, add a section saying that any candidate or member of his political committee who has failed to comply with this section shall be assessed \$300 that shall be collected by the city clerk. The only reason right now that there is no penalty whatsoever... As an elected official I follow the law, but other people don't follow the law.

Commissioner Infantine stated Commission Lopez, I would like you to consider something a little varied such as \$100 plus \$5 per business day. The reason why I bring that to your attention is if someone is running and gets frustrated with the situation if it is \$300, I don't know if the City is going to get attorneys and then track them down to get that \$300. Having a daily penalty will remind someone to get moving. I know a lot of the departments of the City have a similar situation for missing it and a certain amount per day.

Commissioner Lopez stated I'll go along with it. So \$100 and then an additional fine per day.

Commissioner Martin stated Ms. Ferruolo from the Clerk's Office talked about RSA 664:21 IV which has a penalty of \$5 per day on the State level. That would be in alignment with the State. She also suggests that it shall be deposited into the City of Manchester's election fund. I'm just making note of her notation.

Commissioner Lopez stated you can't do that. All money collect by the City has to go into the general fund.

Chairman Duval stated you are saying \$100 for an initial fine plus \$5 per day for every day after.

Commissioner Infantine stated I would say that is for candidates. I think for appointed officials you have to be careful and treat them differently because as we said these are volunteer positions.

Chairman Duval stated they are always subject to not being reappointed if they are not doing what they are supposed to be doing.

Commissioner Ashooh stated the point I wanted to make about appointed positions is that failure to disclose the financial disclosure would eliminate them from the ability to serve in that position.

Commissioner Girard stated I would go with a suspended date until such time as they file.

Commissioner D'Allesandro asked are we trying to get people not to participate in City government? Is that our goal here so no one does anything? So no one participates? It seems to me that putting more restrictions is not the way to go.

Commissioner Ashooh stated I'll give you that, except for the fact that every board you sit on you file a disclosure.

Commissioner D'Allesandro stated my issue with the discourse form is this: do you get \$10,000 a year or more.

Commissioner Ashooh stated and on any of the boards here in the City they ask you to file a disclosure that you have no conflict of interest.

Commissioner D'Allesandro stated that is a conflict of interest. I have no conflict of interest.

Commissioner Ashooh stated while we are talking about it, if they refuse to file that...

Commissioner D'Allesandro interjected if they refuse to file it then they are not going to be on the board. That is a criteria for being on the board. I don't think you have to put that in law. You ought to just state that to the person.

Commissioner Ashooh stated I fail to find the difference.

Commissioner Lopez asked are we talking about two subjects or one? Section 5.29, campaign contributions and expenditures, that is what I am talking about. We are getting too many subjects.

Commissioner Girard stated I think Commissioner D'Allesandro is bringing up a different point. I would like to ask our attorney a question, if I might, Mr. Chairman. The law that is being cited here by the assistant clerk, 664:21, does that govern what we can do here?

Attorney Lehmann replied no. That governs State elections. I think City elections are separate. I hesitate to say that without looking it up.

Commissioner Girard stated I appreciate the comments, but she is just showing us the guidelines of what is out there as opposed to advising us of what we must follow.

Clerk Leahy stated JoAnn's intent was to bring it in line with the State. It was more of a suggestion. That is what the State does and if you were going to impose a penalty it would be in the same ballpark.

Commissioner Girard stated I have, over the years, spoken with Clerk Normand about the unbelievable effort that he makes every quarter to get the elected officials in this City to file. To me it is shameful. If you read the most recent disclosure filings you will find that there are several elected officials who have failed to file the financial reports since being elected. I think a penalty upfront ought to be stiff and I think people ought to know that there is a significant consequence to their failure to file. It is a pretty simple form.

Commissioner Infantine stated I was just going to make a suggestion to have a little more bite to it with a daily fee. Whatever you folks come up with that you think is appropriate, just remember that these are people who have to pay this. I am more interested in talking to Commissioner D'Allesandro when he was recently speaking because he was obviously speaking in a very frustrated tone. Are you talking about the elected officials or the appointed officials on these volunteer boards?

Commissioner D'Allesandro replied I am talking about the volunteer commissioners.

Commissioner Infantine stated you would rather leave that one alone.

Commissioner D'Allesandro responded yes. First of all, when you get a volunteer commission, you usually go to them and ask them to serve. You go to them and ask will you serve and they say yes, I will or no, I won't. At that, as the appointing official, you go over with that at that time what they are doing.

Commissioner Infantine stated at one of their meetings they could say you have to fill this out, type of thing.

Commissioner D'Allesandro stated I think it is a much more cordial context in that type of view.

Chairman Duval stated at some point they started requiring it and Mike, I think you certainly were on the board when they started asking for resumes so that is the time that they can do it. That happened without a charter change.

Commissioner Lopez stated back to my point on 5.29, adding section 4. Right now, the city clerk, Matt Normand, can testify to the fact that he has to chase people around to get them to file. It is a lot of work and a lot of time. If there is no penalty what do you do with the guy? He is already in office. You can't kick him out. The only time you can tell him if he doesn't sit on the board is the first time. It is for campaign contributions.

Commissioner Girard stated your thought is that if there is a smaller first day penalty, but then a daily penalty, there will be a greater likelihood of compliance?

Commissioner Infantine replied it is a felony if we don't fill it out. It is a violation of the law. Over time, we do have people in the newspaper where we are told that they haven't filled it out for years and they still haven't filled it out.

Chairman Duval asked Attorney Lehmann, do you have something for us?

Attorney Lehmann replied I do; 664:21 does appear to apply to City elections, but it not clear to me that the State disclosures apply to City elections. The \$5 fine applies to something that you are not required to do so by its terms, 664:21, it doesn't appear that there is anything to penalize.

Commissioner Girard asked are we constrained by that law?

Attorney Lehmann replied I don't believe you are.

Commissioner Lopez stated I'm going to change 5.29 on a penalty for any candidate or member of his political party is assessed \$100 and \$10 per day that shall be collected by the city clerk.

***Commissioner Lopez** moved to enforce a penalty on any city official who fails to file a financial disclosure form of \$100 for the first day and \$10 for each subsequent day that the form is not filed. The motion was duly seconded by Commissioner Pappas.*

Commissioner Girard stated you referenced candidates and political committees. You did not include sitting elected officials.

Commissioner Lopez stated in the charter already...

Commissioner Girard stated that they file, but no penalty.

Chairman Duval stated at some point they are up for reelection.

Commissioner Lopez stated I see what he is saying.

Commissioner Girard stated we have a filing period in the charter now and Clerk Normand has to hound people to file because there is no penalty. We should either do away with filing or institute a penalty because I think the city clerk has better things to do than chase people who have to file under the charter. To limit it to candidates or political action committees when really are the problem are the sitting officials.

Clerk Leahy stated currently incumbents file quarterly, but candidates and PACs do not have to file quarterly.

Commissioner Lopez asked PACs don't?

Clerk Leahy replied PACs do not.

Commissioner Girard stated which is something they could require.

Commissioner Lopez stated they do at the State, all PACs file at the State.

Commissioner D'Allesandro stated they do file at the State. Let me focus in on this quarterly reporting. If I'm an elected official in the City of Manchester, I filed an initial statement when I declare my candidacy.

Clerk Leahy stated right now you have to file an annual disclosure form and that is in effect January 15th of every year. Then you also have to file quarterly reports.

Commissioner D'Allesandro asked and what is the quarterly report asking for?

Clerk Leahy replied whether or not you have raised less than or more than \$500 within that quarter. If you raised more than \$500 you have to itemize, but if not it is just a simple declaration that I did not and a signature.

Commissioner Ashooh stated there is a difference between that and the annual pecuniary interest. There is a difference between raising campaign funds, whether you are a City official or not, and someone sitting on a board someplace and someone finds themselves with a conflict of interest. I want to separate that out from item 11. We are dealing with sitting officials and people working on their campaigns and not people sitting on boards currently on a volunteer basis.

Commissioner Girard stated yes, I agree.

Commissioner Lopez stated for the sake of time and argument, let's just put any candidate or member of his political party and elected officials and we will worry about the words later. Does that cover it for you?

Commissioner Girard replied sitting officials are the problem.

Commissioner Martin stated restate your motion.

Commissioner Lopez stated any candidate or member of his political committee or elected official who fails to comply with this section shall be assessed a fine of \$100 for the first day and \$10 for every day thereafter. It shall be collected by the

city clerk. There are procedures so if the city clerk doesn't collect his money, he can go to the Committee on Accounts, Enrollment and Revenue Administration and say that John Doe has not paid us. I don't think that any election official is going to want that.

Clerk Leahy stated just a point of clarification. You used the word "or", did you want to say "and"?

Commissioner Lopez replied "and" is fine and then we can worry about the wording.

Commissioner Ashooh asked is there a date that you want to put on this? The forms have to be collect by January 15th.

Clerk Leahy replied that is for the annual.

Commissioner Ashooh stated is there anything that says within ten days of the quarterly or something like that?

Commissioner Lopez replied everything is already laid out in the charter. The only thing that isn't is the penalty.

Clerk Leahy stated for the quarterly it is spelled out of when the quarter ends and then they have a month to file.

Commissioner Lopez stated it is a very simple change really.

Chairman Duval *called for a vote on the motion to enforce a penalty on any city official and member of a political action committee who fails to file a financial disclosure form of \$100 for the first day and \$10 for each subsequent day that the form is not filed. There being none opposed, the motion carried.*

Chairman Duval stated we will go back to the start of the list and work our way down, starting with item 2.

Commissioner Lopez stated since I was the one to bring this up, I'll jump right in. We set the amount of \$107,936. I know John Clayton had another engagement this evening. What I would like to talk about is bringing it down to \$95,000 but we tag it with a COLA increase so if the City employees get a COLA increase he would also get a COLA increase. I would like to see what the position of the commission is to bring the initial salary of the mayor down to \$95,000.

Commissioner D'Allesandro stated I think we should set the salary at a proper level. One hundred thousand dollars, to me, is the threshold. The mayor of Nashua, which is a smaller city, makes \$113,000. Our mayor makes \$68,000 now. What is the median family income in our city right now? Forty thousand, maybe \$50,000? We are offering our chief executive officer a median income which is probably \$10,000 higher than the median family income. It seems to me that if you do it at \$100,000 there is a comparison to the mayor of the City of Nashua. The governor gets \$115,000. We ought to build in an escalator, whether it is the CPI or some other escalator, recognizing that the chief executive deserves a salary that is commiserate with the job. He is managing a multimillion a year business.

Commissioner Lopez stated it is \$310 million.

Commissioner Girard stated it is over \$400 million if you count the enterprises.

Commissioner D'Allesandro stated he is managing a \$400 million business.

Commissioner Infantine stated one of the biggest concerns I have is the response that was solicited or elicited because of this motion passing. You just hit the nail on the head, Senator, that the median income in the city is \$50,000 and you are looking at raising someone salary from \$68,000 to \$100,000 and that, while in a circle of people running a company that size, you are right, woefully inadequate, but sometimes it is perception. This city, as we know, when they tried to bring it up to \$85,000 a few years ago... I'm concerned that what we feel may be appropriate is too big of a jump for the average citizen. I would, in compromise to what Commissioner Lopez says in terms of a COLA, I'm not in favor of any kind of an automatic increase. I would rather see that we put in a rule that the aldermen have to look at it every few years. It doesn't mean that they have to act on it, they can say no, but at least they have to bring it up. It could be four years, four years and we are there in the tenth. It makes it have to come in front of them. I still think \$100,000 is too high. I like the number \$85,000. Now I guess we have heard the low end at \$85,000 and the high end at \$100,000.

Commissioner D'Allesandro stated we pay the chief of staff for the Senate \$100,000 a year. He is an employee of the Senate. I believe the House chief of staff is in that same range. Someone else said it should be \$150,000 or something in that nature. We pay almost every commissioner in the state and department head in the \$100,000 range. If we think the mayor is only worth \$85,000... I understand what you are saying about the public's reaction, but I think that is a very small segment of the population. The body politic understands that a job like this should receive a salary that is commiserate with the job. That is how we get better people to run for these positions.

Commissioner Infantine stated I agree, Senator, but you and I make \$100 a year.

Commissioner D'Allesandro stated that is a constitutional provision.

Commissioner Infantine stated the point that I am trying to make, Senator, is that there are some things that we do that defy logic because of tradition. We get paid \$100 a year and I think you and I are worth much more than \$100 a year for our time and effort. The Charter Commission was a volunteer position. It is hard to take that tradition and change it. My compromise would be that we start with the lower number and force the aldermen to possibly do something. They can do it.

Commissioner D'Allesandro stated I agree with you about the aldermen. We pay the welfare commissioner in Manchester over \$100,000. He is going to get a raise. How many department heads in the City make over \$100,000 a year?

Commissioner Girard replied almost all of them.

Commissioner D'Allesandro stated we are going to say that the mayor should get less than the people he supervises, since we are vesting him the authority to manage these people. We have to take a leap forward with regard to the salary. I always thought that we made a mistake years and years ago with our superintendent of schools when we wouldn't pay \$100,000. I was on the School Board at that time. I brought that motion forward. We would not pay the superintendent of schools and as a result we never got quality people applying for the job.

Commissioner Girard stated I am not in favor of any kind of an escalator for the mayor's salary. I don't have any opposition to Commissioner Infantine's suggestion that the aldermen be required to take the issue up. I would almost rather see that there be a requirement in the charter that the voters take up the issue of what the mayor's compensation should be and have the aldermen order that to ballot if they think the mayor needs a raise and let them decide. I am sensitive to the perception, but frankly, to my surprise, the passage of this proposal did not seem to provoke the public outcry that it might. In fact, though it was limited, the testimony that we got at the public hearing, the commentary that we received from various local publications did not seem to have a problem with paying the aldermen \$15,000, but not the mayor at \$107,000. I know this was a problem with the last charter, but I wonder or not if times have changed and the people of the City of Manchester understand that the demands on the mayor of Manchester as the chief executive officer might not warrant something that at least recognizes its demand.

Commissioner Infantine asked was it the last charter or was it a separate charter question?

Commissioner Girard replied I believe the last time this was taken up was in the last Charter Commission and there was something ordered to ballot during Mayor Baines' time that was shot down. Is someone going to vote against it because it is \$108,000 rather than \$95,000? Is someone going to vote against it because it is \$85,000 instead of \$108,000? This is the danger, by the way, I'm okay with the \$108,000, I'd be okay with the \$95,000 although I agree with Commissioner D'Allesandro that we ought to at least recognize the mayor as the chief executive officer. In a perfect world I would take former Mayor Dupuis' suggestion and take it out of political hands. It doesn't have an escalator, it recognizes the

position, etc, etc. How much time do we want to spend talking about \$10,000 on a \$315 million operating budget?

Chairman Duval stated I think the general consensus is that it is woefully inadequate, it is time to play catch up and I think we have a responsibility as elected commissioners, after we conduct due diligence, which we have, to propose something, after we take public input. We are the informed body right now. I'm content with the \$108,000, but I think we have to be competitive with Nashua. I think it is important, folks. We are the largest city in the state of New Hampshire. It is time that we step up. We have to recognize it. Let's do it. If it fails, it fails, that is what we are here for. This is a formal process for the voters in Manchester. Voters can always vote it down. If they vote it down, that doesn't mean that we didn't do our jobs, they voted it down. They disagreed. That is what the process is about.

Commissioner Lopez stated I agree with Commissioner Girard. Because some people are not here, I would bring it down. I have heard that some people don't want an escalator. You don't want a COLA, you don't want a COLA.

Chairman Duval stated I don't want a COLA either. I just want to settle it.

Commissioner Lopez stated I'll set it at \$107,000.

Commissioner D'Allesandro stated I think Commission Infantine's comment about the aldermen should be voted on.

Commissioner Lopez stated but they won't.

Commissioner D'Allesandro stated they don't have to.

Commissioner Girard stated can we have clarification. I remember what Mayor Dupuis said when he was before us where then Alderman Martineau brought forward a pay raise after he was reelected for the Office of Mayor. He said he wanted it so bad he could feel it in his bones, but he couldn't accept it for political purposes. Maybe there is a way to marry this. Maybe we can take some sort of an escalator and have the aldermen order it to ballot and have the people vote it up or down. I don't think politicians should be voting on what another politician's compensation should be. If we want to build an escalator in and have the aldermen order it to ballot and allow the voters to vote it up or down. That is not complicated.

Commissioner Ashooh stated I'm in favor of \$100,000 flat, no COLA, no escalator. Frankly, the way it has worked in the City is that the Charter Commission, every ten years, has provided a raise that is in excess of any COLA that would have existed over the ten years. If we go from \$68,000 to \$100,000, it is nice, it is simple. We can revisit it in ten years. I think if you give the Board of Mayor and Aldermen the opportunity to weigh in on the compensation of the mayor...

Commissioner Infantine interjected correct me if I'm wrong, but they do have the ability.

Commissioner Ashooh stated they have the ability, but they have never taken it up. For the purposes of our ballot, let's make it a simple number of \$100,000. We can give that to the voters. The more complicated we make this the more likely they will just dismiss it. I support \$100,000 as a flat number and we can revisit it in ten years if we are all back around this table.

Chairman Duval stated with all due respect to that proposal, I am not in your camp. The other thing is that when this goes to ballot it gets more cumbersome and weightier. I would rather keep it really clean and give it the best chance for an up or down vote with the voters. I don't really want to go as high as \$100,000, Commissioner Ashooh, but I will support that if I have to.

Commissioner D'Allesandro stated to support Commissioner Infantine's thought, in the current charter the aldermen have that opportunity. I would be willing to put a number out there and back away from your suggestion, which I think is a very good one, but in the spirit of compromise, we should do something and the \$100,000 number sounds good.

Commissioner Lopez stated we should set the mayor's salary at \$100,000 with the compliance of the existing charter where it says with the election of the next mayor or at the municipal election the mayor's salary shall not be increased. The only thing we are changing is the number to \$100,000.

***Commissioner Lopez** moved to set the mayor's salary at \$100,000. The motion was duly seconded by **Commissioner D'Allesandro**.*

Commissioner Infantine stated I think the thing that frustrates me the most is that it should not be the sole responsibility of the Charter Commission to come up with the salary of the mayor every ten years because it could possibly derail many other things that are important. Absent a citizen coming to the board and asking them to look at it every three years... I'll back off on that one, but the point that I am trying to make is that we are pushing this off to the next charter and the next charter with the same deal.

Chairman Duval called for a vote on the motion. *There being non opposed, the motion carried.*

Chairman Duval stated let's move on to item three. I don't know that we have to beat this one to death.

Commissioner Girard stated the truth is that while we have heard a lot of testimony from various people at hearings, I don't think this body has ever had any discussion about the merits of it one way or another. I'll move it for discussion because frankly we haven't discussed it. We have heard about it from various groups, but we haven't discussed it amongst ourselves.

On motion of Commissioner Girard, duly seconded by Commissioner Infantine, it was voted to discuss approved item three, that the School District remain a school district.

Commissioner Martin asked has anyone's opinion changed? Why would we have more discussion if no one's opinion has changed?

Chairman Duval stated that is a good observation. I'm not planning on changing my vote on that. I'm very set in the fact that it should remain a district. My position isn't movable on that.

Commissioner Infantine stated I'm the one who supported the legislation that would allow it to happen. We all know that the first one was overturned correctly by the supreme court or a lower court than the supreme court. I heard recently, to my surprise, that two aldermen told me that it should be a department of the City and we wouldn't have some of the arguments that are going on. I ask the two

aldermen, one in each party, if they would be willing to come forth and of course neither one would. The thing that surprised me in reviewing this and I was always a supporter, but it seems like it would cause, and someone can correct me, that Mr. Sanders put forth a letter stating what a nightmare it would be.

Chairman Duval asked on the budget timeline?

Commissioner Martin stated we have a letter that Mr. Sanders put together, I believe, with Ms. DeFrancis from the School District, not in correspondence to us, but in reference to this concept and the potential issues.

Commissioner Girard stated having served the City government when it was a department, I would simply like to ask people what has improved since it became a district? As our attorney has pointed out, the State laws are pretty specific when it comes to the jurisdiction of the School Board and when it comes to its policies and procedures and its allocation of its budget that the board of aldermen gives it. The idea that somehow making it a department will give the aldermen greater ability than they already have to dictate policy or dictate items in their line items is not legally possible. It is without precedent. I remember well when I worked for Mayor Wieczorek and the City was struggling through financial issues that frankly make the issues that the City is going through now look like child's play, I remember the do not spend directives when the board of aldermen told departments to make mid-year cuts because the City's budget was going to out of balance, but the School District, even though a department of the City, was removed from those directives because of the State laws that exist and the protection that they received. Many people came to testify before this board that those of us who favor making it a department are somehow making arguments on savings and efficiency and somehow they are saying and I personally have no argument, but I do not remember that all of that accounting had to be done for

state forms and the Department of Revenue Administration. I remember that the discussion over school resource officers and school nurses took place when it was a department. In fact it took place more when it was a department because they needed to discuss with the school what they needed. They brought their budgets forward so not only were the departments arguing for their budgets, but the schools were arguing with what their budgets were too. It was to their benefit. The creation of a district, if nothing else, has created a situation, from a public relations point of view frankly is bad for the schools. They get a \$155 million budget and \$15 million of that comes back to the City for debt service and another \$9 million comes back to the City for various services provided. The amount of money that the School Board actually has jurisdiction over is far less. It has created this crazy situation where the City sends the schools money and then the schools send it back. Also, one other thing about this because I think it is important, by becoming a district the aldermen have absolutely lost touch operation with the schools. What I mean by this is this: I remember being an alderman under this and playing mother may I when it came to certain school personnel or financial issues. If there was a question because their IT systems were tied together I could call the City finance office, HR office, the Health Department and find out how much was being spent, who was being hired. The aldermen got the reports and they were up to date with what was happening in the schools because that information was being reported to them as a City department. Right now they are limited to a 300 page draft during a three hour presentation at budget time and that is all the information that we get from the schools. This hasn't helped anybody.

Commissioner Ashooh stated taken by itself, I think the ruling that it should be a school district should stand. I would support that. Making it a City department by itself, I don't think it has a broad enough scope to do everything it needs to do. We have other city departments that duplicate accounting and finance and I don't

believe, unless you are willing to bring all the accounting and budgeting under one finance department and do all the accounting for the departments including the School District, is not really going to accomplish anything. I think it would have to be done in broader discussions. We would have to bring in Water Works and everyone else under one roof. I will vote to keep the School District an independent district.

Commissioner Girard stated just a reminder that in 2001, the people overwhelmingly voted to make it a department again.

Commissioner Ashooh stated thank you for the reminder, but it doesn't eliminate the duplication of services that we have. That is really where I stand.

Commissioner Lopez stated we received all of that documentation, but I can tell you that for 12 years this has been kicked around and stomped on. This documentation goes all the way back to when Jon Gross was on the School Board. There was a special committee by the Board of Mayor and Aldermen and the end result was that it is not financially feasible with savings or anything. I think the most important thing that I want to bring to the table is that they can do everything that people want today just by agreeing. The supreme court has ruled that as long as you have an agreement with the School Board, for example, bringing the IT into one, you can, but the School Board said no. If there was an agreement between both parties it could be done. The finance, HR offices could be combined if there was an agreement, if people wanted to do it. Where you have two different IT programs it is going to cost a lot of money.

Commissioner Girard stated it is not going to cost any more than it is costing now.

Commissioner Lopez stated it is going to cost more money because they are under a different program. I am not going to argue that point. The point that I wanted to make was that the supreme court said to the School Board when they went into a deficit, but then later got out of their deficit and I must commend them on that, or the City would have then been held responsible for making it up. They can make any agreement and we don't know who is going to be there in the future. Some of these things could be tried for a couple of years to see if it is working. I think forcing the issue, even if the voters vote on it, I think we are going to go into a lawsuit and it is going to take years to make that happen. When you were the aid to Mayor Wieczorek, I agree that you had the capability.

Commissioner Girard stated when I was an alderman I did.

Commissioner Lopez stated you don't have it today.

Commissioner Girard stated that's because they became a district.

Commissioner Lopez stated they are there to govern the schools. They are elected officials. In one breath we say they are responsible and in order to perform the duties over there... The aldermen could do both like some cities and town.

Commissioner Girard stated but they do do both.

Commissioner Lopez stated I realize that. Let me finish before you throw my train of thought. What I am trying to say to you is that from all the documentation that I have read and even from what people have said, but they really can't tell you why when you start to ask why. Even Bill Sanders won't get into the political aspect of it when he was the chief finance officer over there. You would have to

hire more people. It is a maze when people say it should be a department. I agree with Skip Ashooh.

Commissioner Infantine stated if you recall, I asked a question of the superintendent earlier in the year about what system works best in his opinion and how it operates. He said Nashua. Is it a district or a department? Department. This comes from the gentlemen in charge of the schools. Who is really the superintendent of schools? It appears the superintendent answers to the mayor. I would think that he answers to the School Board, but apparently he answers to the mayor. I find that there is an inconsistency there. Then you look at the arguments both pro and con. Some say you don't have to have two sets of accounting, two ITs, so you can save a little bit on the cost. When someone says you have a savings you have to cut it in half to be realistic. Then I hear the arguments against and the arguments against are that they are going to take away money. That is a hollow argument because they can't take money. I would like to know, because I respect your opinion as to why, and the concept is to have a discussion on these things what is the issue that people are so concerned about with the School District and the school administration that they think is going to happen if the School District became a department.

Commissioner Martin stated I think there are enough people in the School District administration who have witnessed the issue in the past and particular the issue with us being billed for City services that we did not consume, for example the problem that Ms. DeFrancis speaks about is the pool functioning that we were billed for at that time. The current chargeback system, I'm not going to tell you that I think it appears efficient, but I asked Mr. Sanders if there was a more efficient way to do it and he saw it as the most efficient.

Commissioner Girard stated if you keep it as a district.

Commissioner Martin stated don't interrupt. We have a clear set of checks and balances. I see the bill for Webster School and it costs \$8,000 to bring the street sweeper to go over the playground. That is one issue that comes across. I have said, as an insider at the School District, to people on a number of occasions within the School District there are issues with how our schools functions. Those issues have nothing to do with that fact that we are not a department. There are other factors that control that. If the general rule is that people are unhappy with our schools let's focus on the real issues rather than using this as a distraction, in my opinion. As far as the consequences of efficiencies, Attorney Lehmann can speak to this, where our School Board would have to hire one individual. Special education law is a very specialized field. There are things that a general lawyer could do, but certainly not special education law so we would still be paying. There are a number of hours racked up with a lawyer on special education law. Also, I would like to speak about Dr. Brennan and when he came in and spoke about our system. We talked about it after. Dr. Brennan, I believe, was speaking about the ideal concept of the board structure. We talked about the Nashua board where the mayor does not chair their board of school committee. He recognizes that they are a city department. The other thing we have to remember about Nashua is that they have an expenditure cap, not a tax cap. They don't have both. He could see us functioning in that environment better than we are now with the tax cap and expenditure cap. Again, I believe it is a distraction. That document that I showed you, there has been some research done and we are extremely lean from an administrative standpoint at the School District office. I agree that there are relationship issues between the Board of School Committee and the Board of Mayor and Aldermen. This is my 25th year in the district and that has been forever. I don't know why that is. I don't know what the root of that issue is. Being a City department I don't know that that gets any easier. That is my feeling and my observation.

Commissioner D'Allesandro stated just to reiterate what Chris just said, when Dr. Brennan talked about Nashua he recognized that the mayor neither sits on the board of aldermen or the school board. The mayor has to be invited and recognized to speak. The mayor is a non-participant at both of those entities. When he was talking about framework, I think he was talking about the organizational structure of the city, much different than it is here. I was on the Board of School Committee when we filed the suits, when we became a district. The autonomy was an important issue. The management was another important issue. Let me give you one illustration. When the City asked the School Board to reduce its budget, and they did, by reducing the budget, the school system had to refund to the Town of Bedford \$750,000 because when you reduce your expenditures you reduce your tuition costs. The tuition, which, by the way, is the lowest in the state, also had to be reduced. The school department did that, but had to give a \$750,000 credit to a town. That was an awful decision. That was a poor decision because you gave up those dollars. I think the acrimony between the schools and the City began to manifest itself over a period of time. There is nothing that says the schools and the City can't get along. They should get along. The chargebacks became an extremely conflicting issue. You would get a chargeback from the City as Chris pointed out, for the maintenance of the pools, the cleaning and so forth. Those things have an effect on the budget, but I think the acrimony began to build and the suit became a very contentious issue. I think getting back to my original comment, Dr. Brennan's concept was a management concept that he wanted to bring forward. He said that it isn't for this administration, he wasn't talking about this administration. He was talking about conceptually, how it could be managed and operated better. I'm just reinforcing your comments.

Commissioner Infantine stated the aldermen and the mayor, when the Fire Department says they need to buy certain kinds of trucks and hoses, the aldermen don't tell them what to do. They picked the fire chief to pick the right hoses and trucks and to go on your way. The police chief comes and says they need these kinds of guns and tasers and jackets and we trust the Police Department knows what to do and say go ahead and run it. I don't know what the same thing doesn't happen with the schools. I find it disturbing that it doesn't. I don't think being bold is going to happen. If you want the mayor off the board, fine, the mayor is off the board and they can become a department again and your department head can be your superintendent. I see it, without disrespect to anyone, as more territorial, quite frankly, than anything else. I don't think the aldermen are going to tell the School Board or district which classes to teach, which buildings to fix up and all those other things. It is unfortunate. That is what I will throw out there. If you really want to mix things up and take the mayor off the board, but you have to make it a department.

Commissioner Girard stated last night I was at the meeting of CIP and there were two items from the School Board there. One was for a \$2.8 million upgrade to the IT infrastructure and upgrades to every building and the other was a \$3.2 million bond for energy efficiency projects in the school. The district still has to come to the City on anything having to do with appropriations, whether it is bonding or operating budget and all the aldermen can do it vote up or down on the operating budget and up or down on whether or not they are going to issue to bonds to do the project. Sometimes they say okay, not much question like they did with the energy efficiency project, and other times they raise their hackles like Alderman Craig did with the technology bond. They still have to go to the City. I will agree with you, commissioner, that the relationship between the aldermen and the School Board is probably not one you want to be married to for a very long time. That being said, it is clear it took a demonstrable turn for the worse when

the lawsuits were filed. It has not improved, it has not gotten any better and I would only ask those of you who do not think it is worth changing what has improved educationally, between the boards, what has improved in the operation of the School District since they separated? What has improved?

Commissioner Martin stated schools are my favorite topic so I will stay here all night and have this conversation. I don't think anyone's position is moving. Out of no disrespect to Commissioner Girard because the question is a reasonable question, it is just not a question that we are going to answer in this amount of time and is this a question we want to spend the time to answer. That is the question I have for my fellow commissioners.

Commissioner Lopez stated I can only tell you that the one thing that has changed since the court has ruled and that is that the School Board needs to vote on the agreement, for example, for the maintenance of the schools, the police officers in the schools. They have to agree to all those costs because they are not on the City side. Any cost they have to have an agreement on based on the supreme court ruling. They have to have an agreement. They can change it, they can do whatever they want and even today, I think it was the finance officer for the School District who wanted to cut the maintenance at the School District, but if you cut the maintenance for the City they just won't do it. You have already agreed to it. I think it has changed, the working relationship. The people each have their own viewpoint. There is a lot of micromanaging that goes on. You are not going to stop that. I think the tools are there for the authority of the School Board to agree to suggestions such as trying IT. It is the people who are there and someone has to convince them that this is the best solution. They can try it for two years and if it doesn't work they can go back to the old way. They can take a small area, like HR... Just to capitalize on one other point. There are issues with

HR with the teachers that our HR is not qualified to do. I'm not going to say any more on that.

Commissioner Girard stated just one final point just to make sure something is accurate. We have heard this, the pools and Beech Street School being tapped into JFK. People make it sound like those dollars were taken out of the school's operating budget and they never were. That was all accounting, not that it was proper accounting. Unfortunately, for whatever reason, those issues weren't worked out, but it is not like the School District was paying the Police Department for police officers that the Police Department wanted or the Health Department for nurses that they wanted. All this stuff that you are talking about, those dollars were put directly into the departmental budgets and what the school got in their operating budget was what they needed for teachers, to buy supplies and run the district. When we are talking about the district and all these charges, it is nothing but an accounting procedure, with the purposes of putting something on a state form. The idea that the City was policing the School District by assigning to it charges and forcing it to pay for things that it didn't owe is not accurate. That needs to be part of the discussion. Commissioner D'Allesandro, you brought up that the City asked, it did not direct, and the School Board could have said nothing. I think we need to keep that in mind. By the way, the chargeback system was created by the supreme court. It didn't need to exist when it was a department because the money was directly accounted for. It was an accounting procedure.

*On motion of **Commissioner Lopez**, duly seconded by **Commissioner D'Allesandro**, it was voted that the School District remain a school district. The motion carried with Commissioners Girard, Pappas and Infantine voting in opposition.*

Chairman Duval asked Clerk Leahy, can you qualify for me, and I voted for this actually, but I'm failing to remember who actually makes the posting. Is it the moderator or the clerk? Is it the City Clerk's Office?

Clerk Leahy replied the City Clerk's Office gives it to the ward clerk.

Chairman Duval asked but the ward clerk has the responsibility of going around and posting it?

Clerk Leahy replied yes.

Chairman Duval stated I think it is a good idea. I voted for it and I supported it, I just hope we are not burdening our ward clerks too much with the transition. I am probably splitting hairs here.

Commissioner Pappas stated ten spots in a small ward is not very difficult. My thing is that we are here, we spent a lot of time talking about voter participation, elections.

Chairman Duval stated my only reservation after voting for it was that I hope we are not burdening the ward clerks from jumping from three to ten. Maybe we should make it six or seven. We do run our ward people ragged. It is really hard to find people. I hope we are not getting too crazy and asking too much of them

Commissioner Ashooh stated the notation we have here from JoAnn Ferruolo about how they follow through on the postings, is this ward by ward or citywide?

Clerk Leahy replied each ward has to have them.

Commissioner Ashooh stated just take a look at the extensive work that the City Clerk's Office does in the various wards and it seems to have the effect of the postings. I could be wrong.

Commissioner Pappas stated I would like to take it down to seven or eight. I can see your point. To your point, if you look at where the Clerk's Office does this, you are talking *Union Leader*, public television, some events and assisted living nursing homes. To me, that is one certain demographic in the city. The people reading the *Union Leader* are not going to be under 45 or 50 at this point. Those people are also not watching public television. My point was to get this to the mothers going to the grocery store or to a convenience store with the kids during the day so they see it on the bullet boards that are there. That is where I am going. I'm trying to grow the voting bloc instead of having it 65 or plus.

Commissioner Girard stated to be perfectly honest with you, I'm fine with ten. The *Union Leader*, when I last ran for office, was circulating 20,000 newspapers in the city. Today, it circulates 10,000. I can't think of a ward that doesn't have ten corner stores. How much work is it really for someone to go into...

Chairman Duval interjected these are volunteers who...

Commissioner Girard interjected no, they are not volunteers. They run for it.

Chairman Duval stated I understand that, but they are volunteer position that they will find hard to run and serve.

Commissioner Infantine stated I guess I need to work a question. Who do you think does the posting? The moderator?

Clerk Leahy replied it is the ward clerk.

Commissioner Infantine stated Ward 6 does not have a public building in it. There is no public building that everyone goes to and there is not a public school that everyone goes to. It always amazes me when I go door to door because people don't read the newspaper anymore. People do go to Nickel's Store. I would like to see it a few more places because in my ward and in some other wards, people aren't going to know and where they go is a clear and distinct demographic. Ten years ago, what ruled in the city? The *Union Leader*. It doesn't any more. Ten years from now we won't even have newspapers. There should be an attempt and I'll split the difference if the commission wants, but there are some places where the public does not pay attention to what is going on and if we want to get more people involved and I think we do, we can pick a number somewhere between three and ten.

Commissioner Pappas stated eight is good. I would change my motion to bring it down to eight.

Commissioner Pappas moved to increase the number of postings of municipal elections from three to eight and that they be posted 30 days before the election. The motion was duly seconded by **Commissioner Infantine**.

Commissioner Lopez asked what are you posting?

Clerk Leahy replied it is literally an 8 ½ by 11 that just says when the election is and where.

Chairman Duval called for a vote on the motion. There being none opposed, the motion carried.

Chairman Duval stated number six is making the welfare commissioner an appointed position. We can spend 30 seconds on debate.

Commissioner D'Allesandro stated first of all we pay this individual \$113,000. We pay him more than the mayor of Manchester. I must say that of all the entities, I don't know how it is with you, Commissioner Infantine, but I get more calls about this entity than any other in City government. I just got a couple today as a matter of fact. It just seems to me that when the current commissioner came before us and said he would rather be an appointed official and be a member of the mayor's cabinet, that sold me on the fact that it should be an appointed official.

Commissioner Infantine stated you have the fire commission and the police commission and it is a mechanism for those individuals to get to the fire chief or police chief. If you take away that, you have a situation where no one can disagree with it, it is not one's fault, but it is a fact that a large amount of the money going into the Welfare Department budget is going to salaries and not to people who possible need it. The fact that you have someone who could bring that to the attention of the public, I like that better than having it behind departments. This is the audit. Have you guys had a chance to look at this yet? It is the School District audit. There is a lot of information in here. In our daily lives, everyone is so complicated, so busy, I'm concerned, honestly, that this becomes a department of the City and you don't have the percentage of what is being spent on this instead of that. Take away the guy and I don't know what the desire is to have another salaried individual to the City. I like to look at what the reason was 20 or 30 years ago when we had county government. Why did we have these people? We had these people in county government because no one trusted the king's people and these people were placed there as a mechanism for the people because

you didn't want someone in charge of the registry of deeds behind the scenes messing with the deeds. It is the same with the registry of probate and some of these other elected officials who were put in. While I am trying to stay away from the guy, I have no problem with the guy, but try to explain to me why we need another salaried department head.

Commissioner D'Allesandro stated what you have now is a department that is separated from the City. It is autonomous. All the salaries and benefits are there. You have to rent a separate space, you hire these people, they all get City benefits because they are City employees. I think if it were a department you would have more of the services of the City available to that individual. I think in the long run you would be saving money. I can't see how it would cost you more. With regard to transparency, transparency is something that we are asking of all departments in government. We have websites, we have the budget on the internet, you can look at everything today. I think by separating it, we are asking for more problems to be generated.

Commissioner Ashooh stated I would like to change the welfare commissioner to an appointed position for a couple of very basic reasons. One of them being a City employee under Yarger Decker, but there are two other reasons that I think go against the grain. You are taking an elected official who doesn't necessarily have to have any qualifications and is being paid by a pay structure and doesn't necessarily have any accountability to the Board of Mayor and Aldermen because he or she is an elected official. If you want to reconcile the fact that this is a vital function then it is someone who should have qualifications and therefore should have accountability to the elected officials here in the City and not be autonomous, and then I would support going back to an elected welfare commissioner. It doesn't have to get any more complicated for me than that.

Chairman Duval stated for me it is much more inline with the other departments that we have. Look at the Health Department and maybe the Welfare Department could be a part of that. I don't know. I understand the history of when it was elected at one point.

Commissioner Ashooh stated when Jane Gile was here two meetings ago and she basically said that there is a job description and set of qualifications for welfare commissioner, but because it is elected, they can't enforce it. If you have a department director, hired by or nominated by the mayor and certified by the Board of Mayor and Aldermen, then a resume has to be posted. As far as I'm concerned, Paul Martineau could run for welfare commissioner and put nothing but his name on the paper and we know nothing else but that. I would rather have an appointed welfare commissioner for those stated reasons.

Commissioner Girard stated Jane Gile also said that the job description and its treatment under the job classification system was specifically because the charter failed to address how to compensate the welfare commissioner as an elected official and we could correct that, like we have with the mayor, by laying out what the compensation will be.

Commissioner Ashooh stated but it doesn't take into account the qualifications.

Commissioner Girard stated I think when you start arguing qualifications for the job, you get yourself into a pickle. The reason for that is that you could argue, objectively speaking, that the mayor of Manchester should have job qualifications that are far greater than any department head. You could make that argument for School Board members and for aldermen, yet we leave it to the elected officials and we let the public to determine whether or not they are qualified for the job. That is what the campaign does.

Commissioner Ashooh stated you are confusing legislative with executive duties. When you have an executive in a position, they have job qualifications to certify that they can do the job. When you have a legislative body, they are elected to represent the people who elected them.

Commissioner Girard stated there is a difference. I would like to make a couple points on that. The mayor or the governor is not a legislative position, the president is not a legislative position.

Commissioner Ashooh asked and they answer to...?

Commissioner Girard replied the people.

Commissioner Ashooh stated you mean they are responsible to the legislature.

Commissioner Girard stated but the reality of the situation is that as the chief executive officer, it is up the people to... I would argue that any of the welfare commissioner races that I have seen in the 20 plus years I have been around you have had some very spirited campaigns where people have vigorously defended their qualifications and there are others that have been ho-hummers. I think that the electorate is capable of judging any candidate for any office or any appointee or official. If you take a look at the charter, the mayor is considered a department head. The welfare commissioner is considered a department head. Two more points on this: if it were an appointed position... Right now it is integrated in the City as a department. The one area where the welfare commissioner is unique as a department head is under state law where the welfare commissioner is not constrained to abide by their budget. Attorney Lehmann can correct me if I'm wrong. Under state law, if the welfare commissioner sees the need to dispense

more assistance than the governing body has appropriated, the welfare commissioner may dispense that assistance and then the governing body shall appropriate the money.

Commissioner Ashooh stated that authority goes with the welfare position, not whether it is elected or appointed.

Commissioner Girard stated I don't disagree except that I think an elected official is going to be more likely to answer that call and be subject to the people than if there pressure from the Board of Mayor and Aldermen.

Commissioner Ashooh stated it is the same question posed by Jane Gile. Whether this person is elected or appointed and their body if work is governed by State law, the BMA cannot refuse them the money under the confines of State law. What is the advantage of electing someone if they are going to be bound by State law whether they are elected or appointed?

Commissioner Girard replied because ultimately when they go to the voters who elected them and have to justify why they overspent their budget.

Commissioner Ashooh asked does that change at all if they are appointed?

Commissioner Girard replied I think it does.

Commissioner Ashooh stated they still go to the Board of Mayor and Aldermen. I choose to disagree with you on that, Rich.

Commissioner Girard stated we are saying that there has been an argument made by members of this commission where we can't have the School District be a department because that somehow will allow the Board of Mayor and Aldermen to have a greater say in what is happening in the schools.

Commissioner Ashooh stated I have never made that argument, but I don't see how it comports to the welfare commissioner.

Commissioner Girard stated if one is governed by law they should all be governed by law.

Commissioner Infantine stated Commissioner Lopez, when you brought up this concept, even though it was a first by Commissioner D'Allesandro, Mike, when you talked about it you talked about starting it with a certain salary. You threw out a certain grade. Maybe I will support this if you add in what you want the starting grade to be and we also say that the department cannot spend more than 50% on salaries.

Commissioner Lopez stated let me say this. The City is in a dilemma. If we do nothing, the person who runs for welfare commission is elected for the next two years. He is elected for the next two years if we do something. I think from what I have heard, from the welfare commissioner himself, it should be a department head. I believe it should be a department head because who knows who is going to be here making decisions. Under the existing charter the Board of Mayor and Aldermen can take the Welfare Department, if they wanted to, and put it into the Health Department and get rid of the department as a consolidation. Commission Girard always like consolidation. The point that I want to make is as simple as that. The current charter already gives the Board of Mayor and Aldermen the authority to do that. He could be a department head. If he is a commissioner they

can't do that. It is an elected position. That is the dilemma that we are in. Mine was at \$76,958, grade 26, step one. As we write this or we move forward as an appointed position, the person who is elected in November in 2013, shall become the department head of the Welfare Department for 2014 to 2015. It complies with him being elected for two years. Starting in January 2016, he or she must qualify for the position under the job classification that is listed with the City. If that said person does not qualify, the mayor shall appoint a welfare department head with qualifications under the job classification with the approval of the aldermen. The department head for the Welfare Department shall become effective July 1, 2014, at \$76,958, grade 26, step one. He is entitled to the compensation package of the City, equal to all other department heads in the City.

Commissioner Infantine stated thank you. I think that if you are going to have it in here, you have to outline what you want versus leaving it up to the aldermen to decide. I guess I am more shocked that people didn't say sure to my second part, the 50%. I can't believe that people are going to sit here and say that any given time, the line that we give the department, we shouldn't be spending 50% to administrate it.

Chairman Duval stated commissioner, I understand where you are coming from, but I don't understand how you can control that when you have costs like the welfare commissioner, the cost of staff, where it is what it is.

Commissioner Infantine stated let's use your analogy. If we say \$1.2 million, would you be upset if we were spending \$1.1 million to manage \$100,000.

Chairman Duval stated that would be foolish.

Commissioner D'Allesandro stated great point, the best point. Fire them but you can't oust them.

Commissioner Infantine stated I just don't know why we wouldn't look at the taxpayers' money.

Commissioner Lopez stated I think you have that authority right now. The Board of Mayor and Aldermen can, during the budget process, can cut the salary. They can cut the salaries. He would have to lay off employees. We can bring it down to 60% if that is what everyone is talking about, but that is an operational thing. It shouldn't be in the charter. They have the authority as a governing body to do that today. If they cut it down for efficiency and he goes to the Board of Mayor and Aldermen and says I need more people, I can't do this, but they don't have to give him the money for the employees. I can assure you that if the welfare commissioner came before the Board of Mayor and Aldermen and said I need \$1 million to put people up in a hotel they can do that.

Commissioner Infantine stated I'm trying to be consistent. You just said some to the effect that they need to do it. Well, guess what? They are not. They have the ability to increase the mayor's salary, but guess what, they are not so we are. We are here every ten years.

Commissioner Girard stated they have an ability to make a deal with the School District, but guess what, they're not.

Commissioner Infantine stated all I'm saying that it is unconscionable to me why we would take taxpayers' money to give to people who need it and why we wouldn't say maybe it shouldn't take 50% to manage the other 50%. Yes, am I a

hard line financial guy? Sure, because I have to run a business and I know what it takes.

Commissioner Lopez stated you are confusing the State with the City.

Commissioner Infantine stated no, if I have to run a business and I budget my income... I'll lay off, guys, but it doesn't look good.

Commissioner Lopez asked would you agree with me that the State welfare is different than the City welfare?

Commissioner Infantine replied I don't think I understand the question. Do I understand what?

Commissioner Lopez stated that they are different in their procedures and what the City gives its clients and what the State gives its clients.

Commissioner Infantine responded I have no basis for either one. I know there are certain rules that delineate what you can and can't get.

Commissioner Lopez stated I don't know if the attorney knows the difference and I don't want you to spend time looking it up, but the State welfare system you have to go and get your check. We don't do that.

Commissioner Infantine stated agreed.

Commissioner Lopez stated and that is the difference. We help people... You have to remember that the City Welfare Department... I don't know how many organizations, last time I counted it was 27 or 28, that help. If we didn't have these non-profit organizations helping people you would see our payroll go up.

Commissioner Girard stated it is 83 organizations, commissioner, and one of the reasons Mr. Martineau has lured the budget the way he has is because he has been rather aggressive about his referrals. I just want to make a couple of points. I think \$76,000 is way too high. You are talking, with the \$1 million budget they currently have, now spending 76.5% on the budget. When Paul Martineau was elected at an entry level salary of \$62,000 and over the course of 13 years that he has been commissioner it has been raised to \$113,000. As a Charter Commission we have to determine the salary of an elected official and prevent it from rising under the Yarger Decker personnel system the way it has. I think something around 10% of the budget is a crazy number. We are arguing over \$10,000 for the mayor in a \$300 million budget and now we want to pay \$75,000 for a million budget? I don't care what the guy's credentials are, it doesn't equate to that level of spending. Just for the record...

Commissioner Lopez interjected commissioner, what do you think other department heads are making?

Commissioner Girard replied other department heads have bigger budgets than \$1 million. The entry level police chief is \$90,000 on a \$20 million budget. I don't think it is proportional. We don't need to have a \$76,000 department head on a \$1 million budget and the only other thing that I will say is that we have heard from one commissioner that the welfare commissioner should be an appointed position, we have heard from another former welfare commissioner and city clerk, Leo Bernier, who said that it should remain elected, along the lines that

people should have the opportunity to... I wish we could find a way to make more of our department heads accountable to the people directly. I just don't think taking it away from the people solves any problems. In fact, it takes away scrutiny and I don't think that is a step in the right direction at this point.

Commissioner Ashooh stated bottom line, they brought up the cost of the welfare commissioner. I am in favor of making the welfare commissioner appointed so we can merge him into the Health Department. That is all I have to say at this point.

Commissioner Lopez stated I would move that the welfare commissioner be appointed and what I wrote I gave to the attorney so if he wants to change it later we can.

***Commissioner Lopez** moved that the welfare commissioner be an appointed position; that the person elected in November 2013 shall become the department head of the welfare department for 2014 to 2015 and starting in January 2016 he or she must qualify for that position under the City's job classification. The mayor shall appoint a welfare department head with those qualifications and with the approval of eight aldermen. The department head for the Welfare Department shall become effective July 1, 2014 at \$76,958, grade 26, step one, and be entitled to the compensation package of the City. The motion was duly seconded by **Commissioner D'Allesandro**. The motion carried with Commissioners Infantine, Girard and Pappas voting in opposition.*

Chairman Duval stated I will have to excuse myself in five minutes. There are a couple items that I would like to weigh in on and I know Commissioner Clayton has expressed a desire to weigh in on.

Commissioner Infantine stated I assume we have the next two weeks to continue.

Chairman Duval stated is there any interest from commissioners to meet twice next week, maybe Monday evening.

Commissioner D'Allesandro stated I can't do it.

Chairman Duval stated I think the rest of the list should go relatively quickly.

Commissioner Girard stated I'm not opposed to meeting twice, but it would probably have to be a Friday night.

Chairman Duval stated we'll take next Wednesday folks and resume. We will go from there.

Commissioner Ashooh stated to move things along, I would make a suggestion that item eight, Commissioner Lopez, be typed up as more of a motion and circulated via email, so we have a tighter resolution. It is not going to be the \$15,000 and there could be some movement there so perhaps a couple of us could work together and come up with something a little tighter to work with.

Commissioner Girard asked can I ask Attorney Lehmann a question? Attorney Lehmann, you had some recommendations with respect to residency requirements for ward offices.

Attorney Lehmann responded I have some concerns about residency requirements.

Commissioner Girard asked could you explain, if this board wanted residency requirements, how we might have to word it? I got a feel for it in your letter, but I'm not sure I followed it.

Attorney Lehmann stated if it was challenged, anytime you put a burden on someone's right to run for office you run the risk of being charged by the people's protection or other action challenges. When you face a challenge like that, the way you have to respond to it is you have to be able to provide a compelling governmental interest supporting the restriction you are overcoming that is constricting, whatever you are supporting, like Rich Girard for Office. If you put a ten year residency requirement on it, it would be a much higher burden where a one year requirement would be a much lower burden, but at some point at an injunction of court you are asked to annunciate a compelling government purpose as to the requirement. As to wards, I think you can do that. As to a one year residency of having to live in the City, I think that would be pretty easy to defend. It would be more complicated to defend a ward position, although I'm not saying you couldn't do it either. It would depend on the reason you thought it was important to have the requirement.

Commissioner Girard stated I know we took a look at the State statutes on this question and our idea of a three year residency requirement for the mayor exceeds the statute.

Attorney Lehmann responded I don't remember.

Commissioner Girard stated if we were to have a ward residency requirement, would you suggest that we carve out an exception for anyone who got relocated to a new ward due to redistricting?

Attorney Lehmann replied I think redistricting is relative to when it happens to the election, but it is possible that someone has lived in the same house for 20 years and then becomes ineligible to run for office because of redistricting.

Commissioner Infantine stated since I made the motion, I think it was a failed motion, but...

Clerk Leahy interjected it had passed.

Commissioner Infantine stated I would be much happier with a one year requirement in the City, not the ward. The ward would be nice in a perfect world, but moving within the city, redistricting, the one year in the city.

Commissioner Girard asked did you want to make a motion right now? We can always revisit it.

TABLED ITEMS

A motion is in order to remove items from the table

6. Education Discussion:
 - Timeline of the school budget
(Note: Communication from William Sanders, Finance Officer, is attached)

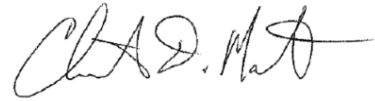
This item remained on the table.

7. Proposed motions by commissioners:
 - Eliminate the tax cap, while maintaining the expenditure cap.
(Commissioner Martin)
 - The restriction of using "one time funds" to balance an operating budget. (Commissioner Ashooh)
 - A person running for mayor needs to be a resident of the City for at least 3 years. (Commissioner Infantine)

This item remained on the table.

*There being no further business, on motion of **Commissioner Ashooh**, duly seconded by **Commissioner Martin**, it was voted to adjourn.*

A True Record. Attest.

A handwritten signature in black ink, appearing to read "CHAD. MARTIN". The signature is fluid and cursive, with the first name "CHAD" in all caps and the last name "MARTIN" in a mix of caps and lowercase letters.

Secretary of the Commission